

REMARKS

This is a full and timely response to the Office Action of October 20, 2005. By the present Amendment, the claims have been amended to more particularly and distinctly point out the novelty and non-obviousness of the present invention. Reconsideration and allowance of the application and all presently pending claims are respectfully requested. The courtesy of the Examiner in granting a recent telephonic interview to Applicant's counsel is acknowledged with appreciation.

By the present Amendment, claims 1-3, 5, 30, 45, 47 and 48 have been amended to point out the novel and non-obvious facilitation and fulfillment of transactions disclosed by the present invention. Support for these claim amendments is found throughout the specification and examples therein, and no new matter is believed to have been added. Claim 1 has been amended to recite that the method therein includes the step of *receiving a wireless transaction request from a transaction requester seeking personal bodily entry into or through a physical structure using a wireless device*, and wherein the step of optically scanning the first transaction code from the visual display of the wireless communication device is performed so as to trigger at least a physical fulfillment event *permitting personal bodily entry into or through a physical structure*. Claims 2, 3 and 5 have been amended to more particularly recite the interaction of the transaction apparatus and the physical structure to or through which entry is desired. Claims 30, 45, 47 and 48 include similar amendments to that provided in claim 1.

As described in the specification for the present application, the present invention provides a system and method for enabling the facilitation and fulfillment of wireless e-commerce transactions in a secure and convenient manner. The present invention further assists in tying e-commerce

transactions to “real world” products and services, and provides appropriate systems to enable users to bypass traditional physical world limitations associated with traditional transactions or only partially integrated e-commerce transactions. For instance, in the movie ticket example described in the specification of the present application, a user is able to bypass a ticket point-of-sale location and proceed directly into the theater using the present invention.

Response to 35 USC 102 and 103 rejections

In the Office Action dated October 20, 2005, the Examiner has rejected claims 1-3, 5-25, 30, 34-44 and 47-48 under 35 USC 102(a) based on the Hymel et al. reference (WO/00/03328, hereinafter “Hymel”). The Examiner has also rejected claims 26-29, 31-33, 45, and 49 under 35 USC 103(a) based on the Ulvinen et al (6,393,305) reference (hereinafter “Ulvinen”) in light of Hymel. Based on the above amendments and the present remarks, Applicant submits that these rejections have been traversed.

Hymel relates to a targeted or affinity marketing and coupon delivery system, employing traditional transaction infrastructure (e.g., point of sale checkout, checkout clerk, coupons, checkout scanner) as the basis for its disclosed system. Unlike the present invention, Hymel does not make it easier to initiate, process or fulfill a transaction for a product or service involving physical fulfillment such as physical entry into or through a physical structure. Hymel is concerned with scanning bar coded coupons at the time the user is purchasing items associated with those coupons. No transaction request occurs in Hymel until the user is at the point of sale presenting items for purchase. At that time, the user presents bar coded coupons which are then scanned by a scanner so that discounts can be applied. The scanning of the bar code does not

result in the fulfillment of a transaction and does not permit personal bodily entry into or through a physical structure.

Given the purpose of Hymel to collect demographic information and transmit targeted coupons, there is no motivation in Hymel to provide a system including the scanning of bar codes in fulfillment of a transacted-for product or service so as to permit personal bodily entry into or through a physical structure. Further, contrary to the claims as amended, there is no teaching or suggestion in Hymel or any other cited reference of *receiving a wireless transaction request from a transaction requester seeking personal bodily entry into or through a physical structure using a wireless communications device*. Such a system is simply not contemplated by Hymel, which again is concerned entirely with targeted marketing and coupon delivery. Indeed, Hymel teaches away from the invention as claimed by using a traditional transaction infrastructure involving a point of sale checkout system, with a checkout clerk, coupons and a checkout scanner. It would run counter to the logic of Hymel to receive such transaction requests as claimed, as the SCR users in Hymel are passive coupon recipients who merely sign up for coupon service and transmit demographic information, to the extent they transmit anything to the Hymel system at all. Bearing in mind that the prior art must teach or suggest *all* claim elements in order to find anticipation or obviousness, and that *all* words in a claim must be considered in judging the patentability of that claim against the prior art (see MPEP 706.02(j) and 2143.03), Applicant submits that the invention as presently claimed is not disclosed or suggested by the prior art of record.

Further, with regard to claims dependent upon claim 1, nothing in Hymel enables the scanning of the code by a transaction fulfillment system which is in communication with a physical structure, with the physical structure having means for restricting physical access into or through the physical structure as claimed in amended claim 2. Regarding claim 3, nothing in Hymel teaches or suggests the steps of communicating a decoded representation of the scanned transaction code to the physical structure so as to activate the means for restricting physical access, in order to permit personal bodily entry into or through the physical structure. Regarding amended claim 5, nothing in Hymel teaches or suggests a transaction code representative of a ticket for physical bodily admission into or through a physical structure.

Claims 30, 45, 47 and 48 include similar amendments to that provided in claim 1, and it is submitted that the rejections thereof have been similarly traversed.

For the above reasons, Applicant submits that none of the cited references, taken either singly or combined, teaches or suggests the system and method of the present invention as presently claimed, and that the rejections in the Office Action of October 20, 2005 have been traversed.

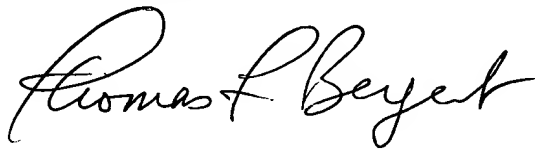
CONCLUSION

Based on the foregoing, Applicant submits that the present application is in position for prompt adjudication and allowance. Applicant believes that all of the claims currently pending in the present application are now in condition for allowance, and an early notice to that effect is earnestly solicited.

Should there be any outstanding issues requiring discussion that would further the prosecution and allowance of the present application, the Examiner is invited to contact Applicant's undersigned representative at the address and phone number provided below.

A two-month extension of time is being filed simultaneously with this Amendment. The Commissioner is hereby authorized to charge Deposit Account No. 50-0766 in payment of the required fees.

Respectfully submitted,
WILLIAMS MULLEN, PC

A handwritten signature in black ink, reading "Thomas F. Bergert". The signature is fluid and cursive, with the first name "Thomas" and last name "Bergert" clearly legible.

Thomas F. Bergert
Counsel for Applicant
Reg. No. 38,076

Filed: March 20, 2005

Attached: Petition for 2-month extension of time

Thomas F. Bergert, Esq.
Williams Mullen, PC
8270 Greensboro Drive, Suite 700
McLean, Virginia 22102
(703) 760-5200
tbergert@williamsmullen.com

J:\WMC\DLIB\TBERGERT\0994574.02